ORAL ORDER:

This writ petition is filed for issuing a writ of mandamus declaring Memo Roc.No.E7/11129/95 dated 8-9-1998 read with Memo E7/9067/2003 dated 29-10-2003 issued by the respondent No.1 herein as illegal and arbitrary and for a consequential declaration that the petitioner is entitled for notional promotion in the cadre of Senior Assistants with effect from the date on which his immediate juniors were promoted.

The case of the petitioner is that he was originally appointed as an Attender in the Tirumala Tirupathi Devasthanams on 28-8-1968 and subsequently promoted as Assistant on 29-6-1978. On 12-12-1983, he was promoted as Junior Assistant. Further, the petitioner was promoted as Senior Assistant vide proceedings ROC No.E1/43870/94 dated 28-2-1995 after qualifying in the departmental test i.e., Accounts Test to Subordinate Officers Part-I and Endowments Departmental Test Part II held on 19-5-1994. The petitioner joined the said post on 8-3-1995. According to the petitioner, by proceedings dated 22-11-1994, 2-12-1994 and 3-12-1994, 11 of his juniors were promoted as Senior Assistants, ignoring his claim of seniority over the said 11 persons.

The case of the petitioner is that the date of his appointment as Senior Assistant has to be reckoned from the last day of the departmental test, which he has passed. Accordingly, the petitioner made several representations to the respondents for restoring his seniority reckoning his date of promotion to the cadre of Senior Assistant from 19-5-1994, the last date of the departmental test. However, the petitioner was informed that his seniority was determined in the cadre of Senior Assistants from the date of his joining the said post i.e., 8-3-1995 under Rule 33(a) of the A.P. State and Subordinate Service Rules. The grievance of the petitioner is that in the case of one K.Satyanarayana Raju, UDC., the respondents issued proceedings dated 31-8-1998 reckoning the date of his appointment from the last day of passing of the accounts Test for Subordinate Officers Part-I and refixed his seniority. The petitioner thereafter made a representation to the respondents for considering his case on par with the said K.Satyanarayana Raju and reviewing his seniority position in the cadre of Senior Assistants. While the representation of the petitioner was pending, it is stated that the first respondent has communicated the tentative seniority list of Senior Assistants vide proceedings dated 7-1-2003 and the

petitioner has submitted his objections to the same and requested for refixation of his seniority. However, the first respondent rejected the request of the petitioner by proceedings dated 29-10-2003. According to the petitioner, Fundamental Rule 26(a) confers right on the petitioner to reckon the last date of the departmental test for the purpose of promotion, seniority and other monetary benefits and accordingly contends that rejection of his request and granting a similar relief to Sri K.Satyanarayana Raju, UDC., is nothing but violation of the equality clause as enshrined in Article 14 of the Constitution of India which renders the impugned proceedings void.

Heard the learned counsel for both the parties.

Learned counsel for the respondents contends that as per Rule 6 of A.P. State and Subordinate Service rules, a panel of candidates approved should be reviewed after a period of six months reckoning from the date of approval of the panel for considering the case of such other persons whose names were not included in the panel prepared earlier and as no review has been taken up as regards the request of the petitioner within the stipulated time, there is no scope for reviewing the panel.

Having heard the learned counsel for both the parties and having regard to the grievance of the petitioner that similarly situated person viz., K.Satyanarayana Raju has been given a differential treatment in the matter of reckoning of seniority, without going into the merits of the case, a direction can be issued to the respondents to consider the case of the petitioner also on par with K.Satyanarayana Raju, if such a treatment has been given to him, and rules provide for such a course of action.

Accordingly, the writ petition is disposed of directing the respondents to consider the case of the petitioner for reckoning his seniority in the cadre of Senior Assistants as was done in the case of K.Satyanarayana Raju, UDC., within a period of eight weeks from the date of receipt of a copy of this order. No costs.

15-12-2004

bsv